



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

ELP  
Docket No. 7476-01  
28 February 2002

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Navy Records, sitting in executive session, considered your application on 27 February 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You reenlisted in the Navy on 22 April 1988 for six years as an MS3 (E-4). At the time of your reenlistment, you had completed nearly four years of prior active service.

The record reflects that you served without incident until 16 November 1989, when you received nonjudicial punishment (NJP) for three instances of failure to obey a lawful orders not to drive or park on the base and to turn over your military identification card, drunk driving, and disorderly conduct. Punishment imposed was a reduction in rate to MSSN (E-3) and 30 days of correctional custody. Thereafter, you were formally counseled and warned that failure to take corrective action could result in administrative separation. It was recommended that you contact with the command drug and alcohol program advisor and counseling and assistance center group on a weekly basis, and participate in group counseling and a one-year aftercare program. On 16 November 1990 you were advanced again to MS3. On 20 November 1990 you received a second NJP for three instances of assaulting your wife. Punishment imposed was oral admonition and reprimand, 60 days of restriction, and a suspended reduction in rate to MSSN.

You were advanced to MS2 (E-5) on 16 June 1993 and extended your enlistment for an additional period of 16 months on 1 April 1994. You continued to serve without further incident until 17 April 1995, when you received a third NJP for use of provoking speech or gestures, aggravated assault, assault by battery, and carrying a concealed weapon. Punishment imposed consisted of a suspended reduction in rate to MS3; a forfeiture of \$934, all but \$300 of which was suspended; and 30 days of restriction.

On 25 April 1995 you were notified that administrative separation action was being initiated to discharge you under other than honorable conditions by reason of misconduct due to a pattern of misconduct and commission of a serious offense. You elected to present your case to an administrative discharge board (ADB). You appeared before an ADB with counsel on 14 August 1995. The ADB, by a vote of 3-0, found you had committed misconduct due to a pattern of misconduct and commission of a serious offense, and recommended discharge under other than honorable conditions. The commanding officer concurred with the ADB findings and recommendation. On 15 August 1995 the Chief of Naval Personnel directed discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct.

Your enlistment, as extended, expired on 21 August 1995. However, the record shows that you were not discharged until 31 August 1995, when you received an honorable discharge by reason of completion of required active service. You were not recommended for reenlistment.

The record does not indicate why you were not discharged prior to or upon the expiration of your enlistment. However, the record clearly shows that you could have and should have been discharged under other than honorable conditions. The Board believed you were extremely fortunate to have received an honorable discharge. Regulations require the assignment of an RE-4 reenlistment code to an individual who is discharged by reason of misconduct or is not recommended for reenlistment. The fact that you were not discharged for misconduct but for completion of required active service does not compel the Board to change your reenlistment code. Three NJPs, all for serious offenses, provided sufficient justification for a non-recommendation for retention and assignment of an RE-4 reenlistment code. The Board thus concluded that the reenlistment code was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have

the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director